

1 HOUSE BILL NO. 35
2 INTRODUCED BY BARDANOUE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO COVERAGE FOR MONTANA PUBLIC
6 EMPLOYEES UNDER FEDERAL SOCIAL SECURITY; AMENDING SECTIONS
7 59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
8 59-1110, 59-1111, AND 59-1112, R.C.M. 1947."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 59-1102, R.C.M. 1947, is amended to
12 read as follows:

13 "59-1102. Definitions. For the purposes of this act—
14 the following definitions apply:

15 ~~(a)~~ (1) The term "wages" means all remuneration for
16 employment as defined herein, including the cash value of
17 all remuneration paid in any medium other than cash, except
18 that ~~such~~ the term ~~shall~~ does not include that part of ~~such~~
19 remuneration which, even if it were for "employment" within
20 the meaning of the Federal Insurance Contributions Act,
21 would not constitute "wages" within the meaning of that
22 act.

23 ~~(b)~~ (2) (a) The term "employment" means any service
24 performed by an employee in the employ of the state, or any
25 political subdivision thereof, for such employer, except:

1 ~~(1)~~ (i) service which in the absence of an agreement
2 entered into under this act would constitute "employment" as
3 defined in the Social Security Act; or,

4 ~~(2)~~ (ii) service which under the Social Security Act may
5 not be included in an agreement between the state and the
6 secretary of health, education, and welfare entered into
7 under this act.

8 (b) Service performed by civilian employees of
9 national guard units is specifically included within the
10 term "employment."

11 (c) Service which under the Social Security Act may be
12 included in an agreement only upon certification by the
13 governor in accordance with section 218(d)(3) of that act
14 ~~shall be~~ is included in the term "employment" if and when
15 the governor issues, with respect to such service, a
16 certificate to the secretary of health, education, and
17 welfare pursuant to ~~section~~ 59-1102.1-~~(b)~~ (5).

18 ~~(3)~~ (3) The term "employee" includes an elective or
19 appointive officer or employee of the state or a political
20 subdivision thereof.

21 ~~(4)~~ (4) The term "state agency" means the board of
22 administration of the public employees' retirement system of
23 the state of Montana.

24 ~~(5)~~ (5) The term "secretary of health, education, and
25 welfare" means the secretary of the United States department

1 of health, education, and welfare; ~~and~~ includes any
 2 individual to whom the secretary of health, education, and
 3 welfare has delegated any of his functions under the Social
 4 Security Act with respect to coverage under ~~such that~~ act of
 5 employees of states and their political subdivisions; and,
 6 with respect to any action taken prior to April 11, 1953,
 7 includes the federal security administrator and any
 8 individual to whom ~~such the~~ administrator had delegated any
 9 such function;.

10 ~~(f)~~ (6) The term "political subdivision" includes an
 11 instrumentality of the state, of one or more of its
 12 political subdivisions, or of the state and one or more of
 13 its political subdivisions, including leagues or
 14 associations thereof, but only if ~~such the~~ instrumentality
 15 is a juristic entity which is legally separate and distinct
 16 from the state or subdivision and only if its employees are
 17 not by virtue of their relation to ~~such the~~ juristic entity
 18 employees of the state or subdivision. The term ~~shall~~
 19 ~~include~~ includes special districts or authorities created by
 20 the legislature or local governments, such as, but not
 21 limited to, school districts, housing authorities, etc.;

22 ~~(g)~~ (7) The term "Social Security Act" means the act of
 23 Congress congress approved August 14, 1935, chapter 531, 49
 24 Stat. 620, officially cited as the "Social Security Act";
 25 ~~including~~ regulations and requirements issued pursuant

1 thereto, as such act has been and may from time to time be
 2 amended; ~~and.~~

3 ~~(h)~~ (8) The term "Federal Insurance Contributions Act"
 4 means subchapter A of chapter 9 of the Federal Internal
 5 Revenue Code of 1939 and subchapters A and B of chapter 21
 6 of the Federal Internal Revenue Code of 1954, as such codes
 7 have been and may from time to time be amended; and the term
 8 "employee tax" means the tax imposed by section 1400 of such
 9 Code of 1939 and section 3101 of such Code of 1954, and as
 10 such codes may from time to time be amended."

11 Section 2. Section 59-1102.1, R.C.M. 1947, is amended
 12 to read as follows:

13 "59-1102.1. Referendum and certification.
 14 (1) (a) Pursuant to section 218(d)(6) of the Social
 15 Security Act, the public employees' retirement system of the
 16 state of Montana ~~shall is~~, for the purposes of this act, be
 17 ~~deemed to constitute~~ considered a separate retirement system
 18 with respect to the state and a separate retirement system
 19 with respect to each political subdivision having positions
 20 covered thereby.

21 (b) Pursuant to section 218(p)(1) of the Social
 22 Security Act, the highway patrolmen's retirement system of
 23 the state of Montana, the public employees' retirement
 24 system of the state of Montana, and each municipal police
 25 reserve fund and each unit of the statewide police reserve

1 fund of the state of Montana are, for the purposes of this
 2 act, considered separate retirement systems with respect to
 3 the state and separate retirement systems with respect to
 4 each political subdivision having positions covered thereby.

5 (2) With respect to employees of the state other than
 6 highway patrolmen and with respect to highway patrolmen, the
 7 governor is empowered to authorize a referendum, and with
 8 respect to the employees of any political subdivision he
 9 shall authorize a referendum upon the request of the
 10 governing body of such the subdivisions and.

11 (3) ~~in~~ In either case the referendum shall be
 12 conducted, and the governor shall designate an agency or
 13 individual to supervise its conduct, in accordance with the
 14 requirements of section 218(d)(3) of the Social Security
 15 Act, on the question of whether service in positions covered
 16 by a retirement system established by the state or by a
 17 political subdivision thereof should be excluded from or
 18 included under this act.

19 (4) The notice of referendum required by section
 20 218(d)(3)(C) of the Social Security Act to be given to
 21 employees shall contain or shall be accompanied by a
 22 statement, in such form and such detail as the agency or
 23 individual designated to supervise the referendum ~~shall deem~~
 24 considers necessary and sufficient, ~~to inform~~ informing the
 25 employees of the rights which will accrue to them and their

1 dependents and survivors, and the liabilities to which they
 2 will be subject, if their services are included under an
 3 agreement under this act.

4 ~~(b) Pursuant to section 218 (p) (1) of the Social~~
 5 ~~Security Act, the highway patrolmen's retirement system of~~
 6 ~~the state of Montana, and the public employees' retirement~~
 7 ~~system of the state of Montana and the metropolitan police~~
 8 ~~retirement system of the various cities of Montana shall,~~
 9 ~~for the purposes of this act be deemed to constitute~~
 10 ~~separate retirement systems with respect to the state and~~
 11 ~~separate retirement systems with respect to each political~~
 12 ~~subdivision having positions covered thereby. With respect to~~
 13 ~~highway patrolmen of the state the governor is empowered to~~
 14 ~~authorize a referendum and with respect to the employees of~~
 15 ~~any political subdivision he shall authorize a referendum~~
 16 ~~upon request of the governing body of such subdivision and~~
 17 ~~in either case the referendum shall be conducted, and the~~
 18 ~~governor shall designate an agency or individual to~~
 19 ~~supervise its conduct, in accordance with the requirements~~
 20 ~~of section 218 (d) (3) of the Social Security Act, on the~~
 21 ~~question of whether service in positions covered by a~~
 22 ~~retirement system established by the state or by a political~~
 23 ~~subdivision thereof should be excluded from or included~~
 24 ~~under this act. The notice of referendum required by section~~
 25 ~~218 (d) (3) (C) of the Social Security Act to be given to~~

1 ~~employees shall contain or shall be accompanied by a~~
 2 ~~statement, in such form and such detail as the agency or~~
 3 ~~individual designated to supervise the referendum shall deem~~
 4 ~~necessary and sufficient, to inform the employees of the~~
 5 ~~rights which will accrue to them and their dependents and~~
 6 ~~survivors, and the liabilities to which they will be~~
 7 ~~subject, if their services are included under an agreement~~
 8 ~~under this act.~~

9 ~~(e) (5)~~ Upon receiving evidence satisfactory to him
 10 that with respect to any such referendum the conditions
 11 specified in section 218(d) (3) of the Social Security Act
 12 have been met, the governor shall so certify to the
 13 secretary of health, education, and welfare."

14 Section 3. Section 59-1104, B.C.H. 1947, is amended to
 15 read as follows:

16 "59-1104. Plans for coverage of employees of political
 17 subdivisions. ~~(a) (1)~~ Each political subdivision of the
 18 state shall submit for approval by the state agency a plan
 19 for extending the benefits of ~~title~~ Title II of the Social
 20 Security Act, in conformity with applicable provisions of
 21 such act, to employees of such political subdivision. ~~Each~~
 22 ~~such a~~ plan and any amendment thereof shall be approved by
 23 the state agency if it finds that ~~such the~~ plan, or ~~such the~~
 24 plan as amended, is in conformity with such requirements as
 25 are provided in regulations of the state agency, ~~except~~

1 ~~that,~~

2 ~~(2)~~ ~~no such~~ No plan shall may be approved unless:

3 ~~(4) (a)~~ it is in conformity with the requirements of
 4 the Social Security Act and with the agreement entered into
 5 under ~~section~~ 59-1103;

6 ~~(2) (b)~~ it provides that all services which constitute
 7 employment as defined in ~~section~~ 59-1102 and are performed
 8 in the employ of the political subdivisions by employees
 9 thereof, ~~shall will~~ be covered by the plan, except that it
 10 may exclude services performed by individuals to whom
 11 section 218(c) (3) (C) of the Social Security Act is
 12 applicable;

13 ~~(3) (c)~~ it specifies the ~~source or~~ sources from which
 14 the funds necessary to make the payments required by
 15 ~~paragraph (1) of subsection (c) and by subsection (d)~~
 16 subsections (4) (a) and (5) are expected to be derived and
 17 contains reasonable assurance that ~~such the~~ sources will be
 18 adequate for such purpose;

19 ~~(4) (d)~~ it provides for such methods of administration
 20 of the plan by the political subdivision as are found by the
 21 state agency to be necessary for the proper and efficient
 22 administration of the plan;

23 ~~(5) (e)~~ it provides that the political subdivision will
 24 make such reports, in such form and containing such
 25 information, as the state agency may from time to time

1 require, and will comply with such provisions as the state
2 agency or the secretary of health, education, and welfare
3 may from time to time find necessary to assure the
4 correctness and verification of such reports;

5 ~~(6)~~ (f) it authorizes the state agency, in its
6 discretion, to terminate the plan in its entirety, ~~in the~~
7 ~~discretion of the state agency~~, if it finds that there has
8 been a failure to comply substantially with any provision
9 contained in ~~such the~~ plan, such termination to take effect
10 at the expiration of such notice and on such conditions as
11 may be provided by regulations of the state agency and may
12 be consistent with the provisions of the Social Security
13 Act.

14 ~~(b)~~ (3) The state agency ~~shall~~ may not finally refuse
15 to approve a plan submitted by a political subdivision under
16 subsection ~~(a)~~, (1) and ~~shall~~ may not terminate an approved
17 plan, without reasonable notice and opportunity for hearing
18 to the political subdivision affected thereby.

19 ~~(c)~~ ~~(4)~~ (4) (a) Each political subdivision as to which
20 a plan has been approved under this section shall pay, at
21 such time or times as the state agency may prescribe by
22 regulation, contributions with respect to wages (as defined
23 in section 59-1102), ~~at such time or times as the state~~
24 ~~agency may by regulation prescribe~~, contributions in the
25 amounts and at the rates specified in the applicable

1 agreement entered into by the state agency under ~~section~~
2 ~~59-1102~~, 59-1103.

3 ~~(3)~~ (b) Each political subdivision required to make
4 payment under ~~paragraph (1) of this subsection~~ subsection
5 (4) (a) shall, in consideration of the employee's retention
6 in, or entry upon, employment after enactment of this act,
7 impose upon each of its employees, as to services which are
8 covered by an approved plan, a contribution with respect to
9 his wages (as defined in ~~section~~ 59-1102), not exceeding the
10 amount of the employee tax which would be imposed by the
11 Federal Insurance Contributions Act if such services
12 constituted employment within the meaning of that act, and
13 ~~to~~ shall deduct the amount of such contributions from his
14 wages as and when paid. Contributions so collected ~~shall~~
15 partially discharge the liability of ~~such the~~ political
16 subdivision or instrumentality under ~~paragraph (1) of this~~
17 ~~subsection~~ subsection (4) (a). Failure to deduct ~~such the~~
18 contribution ~~shall~~ does not relieve the employee or employer
19 of liability therefor.

20 ~~(d)~~ (5) Delinquent payments due under ~~paragraph (1) of~~
21 ~~subsection (c)~~ subsection (4) (a) may, with interest at the
22 rate of ~~six per centum (6%) per annum a year~~, be recovered
23 by action in a court of competent jurisdiction against the
24 political subdivision liable therefor, or may, at the
25 request of the state agency, be deducted from any other

1 moneys payable to ~~such~~ the subdivision by any department,
2 agency, or fund of the state."

3 Section 4. Section 59-1105, R.C.M. 1947, is amended to
4 read as follows:

5 "59-1105. Contribution account. ~~(a)~~ (1) There is
6 hereby established, in place of the fund known as the
7 contribution fund, a ~~contribution account~~ an agency account
8 for the social security program in the agency fund, to be
9 known as the contribution account.

10 (2) ~~Such~~ The contribution account shall consist of and
11 there shall be deposited in such account:

12 ~~(1)~~ (a) all contributions, interest, and penalties
13 collected under ~~sections~~ 59-1103.1 and 59-1104;

14 ~~(2)~~ (b) all moneys appropriated thereto by the
15 ~~legislative assembly~~ legislature of the state of Montana;
16 and

17 ~~(3)~~ (c) all sums recovered upon the bond of the
18 custodian or otherwise for losses sustained by the account;
19 and

20 (d) all other moneys received for the account from any
21 other source.

22 (3) All moneys in the account shall be mingled and
23 undivided. Subject to the provisions of this act, the state
24 agency is vested with full power, authority, and
25 jurisdiction over the account, including all moneys and

1 property or securities belonging thereto~~it~~ . The board of
2 investments shall invest the ~~same~~ account in investments of
3 the same character as are permitted by ~~section 79-1202~~ of
4 ~~this code~~ 79-310 for the investment of moneys in the
5 long-term investment fund, ~~and~~ The state agency shall credit
6 all interest and income ~~heretofore or hereafter~~ earned
7 ~~thereon~~ on the account in excess of that which, in ~~the~~ its
8 judgment ~~of the state agency~~, may be needed for the purposes
9 set forth in ~~subdivision (b)~~ subsection (4) of this section,
10 to the earmarked revenue fund or funds of the state agency,
11 to be used by it either to defray the costs of administering
12 the state agency, or for distribution pro rata to the
13 contributing state departments, political subdivisions,
14 school districts, and instrumentalities, as it may
15 determine, ~~and~~ It may perform any and all acts, whether or
16 not specifically designated, which are necessary to the
17 administration ~~thereof~~ of the account and are consistent
18 with the provisions of this act.

19 ~~(b)~~ (4) The contribution account shall be used and
20 administered exclusively for the purpose of this act.
21 Subject to the provisions of ~~subdivision (a)~~ subsection (3)
22 of this section, withdrawals from ~~such~~ the account shall be
23 made for, and solely for, ~~(a)~~ payment of amounts required to
24 be paid to the secretary of the treasury of the United
25 States pursuant to an agreement entered into under ~~section~~

1 59-1103~~+~~ ~~(B)~~ payment of refunds provided for in ~~section~~
 2 59-1103.1~~+~~ and ~~(C)~~ refunds of overpayments, not otherwise
 3 adjustable, made by a political subdivision or
 4 instrumentality.

5 ~~(e)~~ (5) (a) From the contribution account the custodian
 6 of the account shall pay to the secretary of the treasury of
 7 the United States such amounts and at such time or times as
 8 may be directed by the state agency in accordance with any
 9 agreement entered into under ~~section 59-1102.1~~ 59-1103 and
 10 the Social Security Act.

11 ~~(d)~~ (b) The treasurer of the state shall pay all
 12 warrants drawn upon the state agency in accordance with the
 13 provisions of this section and with such regulations as the
 14 state agency may prescribe pursuant thereto.

15 ~~(e)~~ (5) Each department of the state shall include in
 16 its operating budget for the next succeeding fiscal year,
 17 prepared and delivered to the department of administration
 18 in accordance with the provisions of law, an estimate of the
 19 amount which it will be required to contribute to the
 20 contribution account."

21 Section 5. Section 59-1106, R.C.M. 1947, is amended to
 22 read as follows:

23 "59-1106. Costs of administration. All costs allocable
 24 to the administration of this chapter shall be charged to
 25 the earmarked revenue fund, ~~social security retirement~~

1 division account, ~~and so, so~~ so much of ~~such the~~ costs as are
 2 not defrayed by interest and income earned upon the
 3 ~~contributions fund~~ contribution account, which has been
 4 credited to ~~said the~~ earmarked revenue fund, ~~social security~~
 5 retirement division account, as provided in ~~section~~ 59-1105,
 6 shall be paid to the state agency for deposit to the
 7 earmarked revenue fund, ~~social security retirement~~ division
 8 account, by each department of the state and by the
 9 participating divisions, ~~and~~ instrumentalities, and
 10 political subdivisions of the state pro rata according to
 11 their respective contributions."

12 Section 6. Section 59-1109, R.C.M. 1947, is amended to
 13 read as follows:

14 "59-1109. ~~Supplementation of social security benefits~~
 15 Referendum by school district. ~~Any~~ A school district of the
 16 state, may, upon the approval thereof being voted by the
 17 board of trustees, conduct and supervise a referendum,
 18 pursuant to section 218 of the Federal Social Security Act,
 19 among the members of the staff and teachers of the school or
 20 schools under the jurisdiction of ~~such the~~ board of
 21 trustees. If the majority of votes cast in ~~any such the~~
 22 referendum indicates that ~~said the~~ staff and teachers
 23 approve, then ~~such the~~ board of trustees shall certify to
 24 the ~~state department of revenue (or such other agency as may~~
 25 ~~be by legislation designated to administer such program and~~

1 ~~enter into agreements for extensions of social security~~
 2 ~~coverage)~~ department of administration that the conditions
 3 for coverage by social security, required by section 218 of
 4 the Social Security Act, have been complied with."

5 Section 7. Section 59-1110, R.C.M. 1947, is amended to
 6 read as follows:

7 "59-1110. Eligibility of staff and teachers — payroll
 8 deductions. (1) Pursuant to such Upon the certification
 9 provided for in 59-1109, the staff and teachers of ~~any such~~
 10 the district ~~shall be~~ are eligible for coverage under the
 11 provisions of the Federal Social Security Act, ~~and,~~

12 (2) the The fiscal officer of ~~such~~ the district shall
 13 thereafter collect the contributions required under the
 14 Federal Social Security Act, section 218, ~~by payroll~~
 15 ~~deduction~~ from the staff and teachers by payroll deduction
 16 and from the school district as employer, ~~and said.~~ The
 17 funds ~~and accounts~~ collected shall be deposited with the
 18 ~~state department of revenue, or such other agency as may be~~
 19 ~~designated by the legislature to administer Social Security~~
 20 ~~act coverage in this state,~~ department of administration and
 21 held in the ~~contributions' fund~~ contribution account as
 22 provided by ~~sections~~ 59-1101 ~~to~~ through 59-1108.

23 (3) For the purposes of this act, the contributions
 24 with respect to services, equivalent to the employer's tax
 25 established by the Federal Social Security Act, ~~shall be~~ are

1 the first obligation against any state funds received for
 2 school support by any school district, high school district,
 3 or county high school, and shall ~~first~~ be paid therefrom
 4 before any other expenditure."

5 Section 8. Section 59-1111, R.C.M. 1947, is amended to
 6 read as follows:

7 "59-1111. ~~For purposes of act, each state institution~~
 8 ~~of higher education deemed to have a separate retirement~~
 9 ~~system referendum administration~~ Participation of
 10 institutions of higher education. ~~(a)(1)~~ For the purposes of
 11 this section ~~of this act, there shall be deemed to be the~~
 12 teachers' retirement system of the state of Montana is
 13 considered a separate retirement system ~~for the teachers of~~
 14 with respect to each state institution of higher education
 15 in Montana, and each ~~such~~ institution and the teachers
 16 therein shall be treated separately and independently from
 17 the other ~~such~~ institutions and teachers.

18 ~~(b)(2)~~ On request of the president of ~~any such~~ an
 19 institution, the governor shall designate an agency or
 20 individual to give notice of and supervise a referendum in
 21 the retirement system for that institution in compliance
 22 with the ~~requisites therefore~~ requirements prescribed by
 23 section 218 of the ~~Federal~~ Social Security Act.

24 ~~(c)(3)~~ If the majority of votes cast in ~~any such~~ the
 25 referendum indicates that the majority of voters desire it,

1 ~~then~~ the governor shall certify to the ~~federal~~ secretary of
 2 health, education, and welfare that ~~each of~~ the conditions
 3 set forth in section 218 of the Social Security Act ~~has~~ have
 4 been complied with in respect to the retirement system
 5 voting in ~~that~~ the referendum.

6 ~~(4)~~ (4) Upon ~~such~~ certification, the governor shall
 7 designate an official to enter into an agreement, ~~for a~~
 8 modification or supplement to an existing agreement, ~~or both~~
 9 ~~such a~~ modification and a supplement, with the appropriate
 10 officers of the federal government, pursuant to section 218
 11 of the ~~said~~ Social Security Act, to secure coverage
 12 thereunder for the retirement system with respect to which
 13 ~~such~~ certification has been made. ~~Such agreements~~ An
 14 agreement may be made retroactive to the extent permissible
 15 under the Social Security Act.

16 ~~(5)~~ (5) The fiscal officer for ~~each~~ an institution for
 17 whose retirement system an agreement has been ~~so~~ made shall
 18 collect the contributions required by ~~said~~ section 218, as
 19 follows:

20 ~~(1)~~ (a) from the teachers in the retirement system of
 21 that institution, by payroll deductions; and

22 ~~(2)~~ (b) ~~for~~ from the state, from any appropriations to
 23 the institution involved for salaries, or ~~otherwise made~~
 24 ~~available, to the institution involved~~ other purposes.

25 (6) In the absence of a specific provision in the

1 appropriations for, or budget of, ~~such~~ an institution for
 2 such contributions, the ~~state board of education~~ board of
 3 regents of higher education shall designate the funds from
 4 which ~~any such~~ the required contributions ~~shall~~ will be made
 5 and the budgetary items to which they ~~shall~~ will be
 6 allocated.

7 ~~(7)~~ (7) In the event that any relevant provisions of
 8 federal law are amended or superseded, then the provisions
 9 hereof which relate to such law shall be applied to ~~such~~ the
 10 ~~amended law or such~~ the superseding law."

11 Section 9. Section 59-1112, R.C.M. 1947, is amended to
 12 read as follows:

13 "59-1112. ~~Social security coverage not to prejudice~~
 14 ~~other~~ No effect on rights under other laws. Nothing in this
 15 act ~~shall~~ may be construed to prejudice or otherwise affect
 16 any rights, benefits, or privileges heretofore accrued under
 17 any other law of this state, ~~it being, It is~~ the intent of
 18 this legislation to permit supplementation of present
 19 retirement benefits under existing law with social security
 20 benefits, ~~and, It is also the intent to permit members of~~
 21 ~~teaching or staff personnel~~ teachers and staff in any
 22 district or institution of higher education, so electing, to
 23 become ~~a member~~ members of more than one retirement system,
 24 to receive credit under more than one system for the same
 25 service, and to receive benefits from more than one ~~such~~

LC 0025/01

- 1 ~~system, and no~~ No benefits received under either system
- 2 ~~shall~~ may be deducted from any other or separate system."

-End-

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LC 0025

1977 Legislature
Code Commissioner Bill - Summary

House _____ Bill No. 35

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO COVERAGE FOR PUBLIC EMPLOYEES IN MONTANA UNDER FEDERAL SOCIAL SECURITY.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 59-1102. Definitions. In subsection (b), the internal reference to 59-1102.1(b) has been changed to 59-1102.1(c) to correct an error which arose when 59-1102.1 was amended by Section 2, Ch. 22, L. 1974, which redesignated subsection (b) as subsection (c). In turn, 59-1102.1(c) has been changed to 59-1102.1(5) since 59-1102.1 is being amended and it's subsections renumbered again.

Section 2. 59-1102.1 Referendum and certification. Former subsection (b) has been incorporated into subsection (1) and the reference to "the metropolitan police, retirement system of the various cities of Montana" changed to "each municipal police reserve fund and each unit of the statewide police reserve fund of the state of Montana" in order to update the terminology, make provision for the newly created statewide fund, and make it clear that each unit is treated separately. "Portions" near the end of the first sentence becomes "positions" to correct an apparent error.

Section 3. 59-1104. Plans for employees of political subdivisions. In subsection (4)(a) formerly (c)(1), the internal reference to 59-1102.1 is changed to 59-1103. The original session law, Sec. 4, Ch. 44, L. 1953, referred to section 3 of that act, which became 59-1103. However, Ch 270, L. 1955 purported to amend Ch. 44, L. 1953 -- 59-1103 was moved from section 3 of the last act to section 4 and the new section 3 of the act became 59-1102.1. Through an oversight, the internal reference in 59-1104 was not changed. It is being amended now to correct the oversight.

In subsection (c)(2), "to deduct" is changed to "shall deduct" to correct an apparent error.

Section 4. 59-1105. Contribution account. Added reference to "agency account for the social security program" to clarify - that is what the contribution account is called by the administrators and the treasurer. In subsection (5)(a), the internal reference to 59-1102.1 changed to 59-1103 for same reason as amendment made to 59-1104(c)(1). In subsection (3), the internal reference to 79-1202 is changed to 79-310 since 79-1202 has been repealed and replaced by 79-310. Also in subsection (3), changed "it" to "The board of investments" to account for recent changes in the law - Article VIII, Section 13 of the 1972 constitution mandates a unified investment program for public funds; 79-308 and 82A-204 implement the mandate; 82A-204(4) provides that the board of investments has the sole authority to invest public funds. Deleted "heretofore or hereafter" in the next sentence - superfluous.

Section 5. 59-1106. Costs of administration. Changed "social security division account" to "retirement division account" to accord with actual accounting procedures - all the retirement accounts are put into one account. "Contributions fund" is changed to "contribution account" to correct terminology -- see 59-1105(a) which mandates the change in terminology.

Section 6. 59-1109. Referendum by school district. "State dept. of revenue (or such other ... coverage)" is amended to read "dept. of administration" to specify what the "other agency" is that the legislature has designated -- see 82A-201.1(2).

Section 7. 59-1110. Eligibility of staff and teachers -- payroll deductions. Same change as in 59-1109. "Contributions fund" is changed to "contribution account" for same reason as under 59-1106.

Section 8. 59-1111. Participation of institutions of higher education. In subsection (5)(b) formerly (e)(2), "for" is changed to "other purposes" for clarification. In addition, "state board of education" is changed to "board of regents of higher education" under the authority of 75-5617(2), which reassigns the power.

Section 9. 59-1112. No effect on rights under other laws. "Members of teaching or staff personnel" is changed to "teachers and staff" and "a member" to "members" for clarification.

Approved by Committee
on State Administration

1 HOUSE BILL NO. 35
2 INTRODUCED BY BARDANOUVE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO COVERAGE FOR MONTANA PUBLIC
6 EMPLOYEES UNDER FEDERAL SOCIAL SECURITY; AMENDING SECTIONS
7 59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
8 59-1110, 59-1111, AND 59-1112, R.C.M. 1947."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 59-1102, R.C.M. 1947, is amended to
12 read as follows:

13 "59-1102. Definitions. For the purposes of this act—
14 the following definitions apply:

15 ~~(a)~~ (1) The term "wages" means all remuneration for
16 employment as defined herein, including the cash value of
17 all remuneration paid in any medium other than cash, except
18 that ~~such~~ the term ~~shall~~ does not include that part of ~~such~~
19 remuneration which, even if it were for "employment" within
20 the meaning of the Federal Insurance Contributions Act,
21 would not constitute "wages" within the meaning of that
22 act.

23 ~~(b)~~ (2) (a) The term "employment" means any service
24 performed by an employee in the employ of the state, or any
25 political subdivision thereof, for such employer, except:

1 ~~(i)~~ (i) service which in the absence of an agreement
2 entered into under this act would constitute "employment" as
3 defined in the Social Security Act; or,

4 ~~(ii)~~ (ii) service which under the Social Security Act may
5 not be included in an agreement between the state and the
6 secretary of health, education, and welfare entered into
7 under this act.

8 (b) Service performed by civilian employees of
9 national guard units is specifically included within the
10 term "employment."

11 (c) Service which under the Social Security Act may be
12 included in an agreement only upon certification by the
13 governor in accordance with section 218(d)(3) of that act
14 ~~shall be~~ is included in the term "employment" if and when
15 the governor issues, with respect to such service, a
16 certificate to the secretary of health, education, and
17 welfare pursuant to ~~section~~ 59-1102.1 ~~(b)~~ (5).

18 ~~(e)~~ (3) The term "employee" includes an elective or
19 appointive officer or employee of the state or a political
20 subdivision thereof.

21 ~~(d)~~ (4) The term "state agency" means the board of
22 administration of the public employees' retirement system of
23 the state of Montana.

24 ~~(e)~~ (5) The term "secretary of health, education, and
25 welfare" means the secretary of the United States department

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1 of health, education, and welfare; ~~and~~ includes any
 2 individual to whom the secretary of health, education, and
 3 welfare has delegated any of his functions under the Social
 4 Security Act with respect to coverage under ~~such that~~ act of
 5 employees of states and their political subdivisions; and,
 6 with respect to any action taken prior to April 11, 1953,
 7 includes the federal security administrator and any
 8 individual to whom ~~such the~~ administrator had delegated any
 9 such function;.

10 ~~(6)~~ (6) The term "political subdivision" includes an
 11 instrumentality of the state, of one or more of its
 12 political subdivisions, or of the state and one or more of
 13 its political subdivisions, including leagues or
 14 associations thereof, but only if ~~such the~~ instrumentality
 15 is a juristic entity which is legally separate and distinct
 16 from the state or subdivision and only if its employees are
 17 not by virtue of their relation to ~~such the~~ juristic entity
 18 employees of the state or subdivision. The term ~~shall~~
 19 ~~include~~ includes special districts or authorities created by
 20 the legislature or local governments, such as, but not
 21 limited to, school districts, housing authorities, etc.;

22 ~~(7)~~ (7) The term "Social Security Act" means the act of
 23 ~~Congress~~ Congress approved August 14, 1935, chapter 531, 49
 24 Stat. 620, officially cited as the "Social Security Act,"
 25 ~~including~~ regulations and requirements issued pursuant

1 thereto, as such act has been and may from time to time be
 2 amended; ~~and~~.

3 ~~(8)~~ (8) The term "Federal Insurance Contributions Act"
 4 means subchapter A of chapter 9 of the Federal Internal
 5 Revenue Code of 1939 and subchapters A and B of chapter 21
 6 of the Federal Internal Revenue Code of 1954, as such codes
 7 have been and may from time to time be amended; and the term
 8 "employee tax" means the tax imposed by section 1400 of such
 9 Code of 1939 and section 3101 of such Code of 1954, and as
 10 such codes may from time to time be amended."

11 Section 2. Section 59-1102.1, R.C.M. 1947, is amended
 12 to read as follows:

13 "59-1102.1. Referendum and certification.
 14 (1) (a) Pursuant to section 218(d)(6) of the Social
 15 Security Act, the public employees' retirement system of the
 16 state of Montana ~~shall be~~, for the purposes of this act, ~~be~~
 17 ~~deemed to constitute~~ considered a separate retirement system
 18 with respect to the state and a separate retirement system
 19 with respect to each political subdivision having positions
 20 covered thereby.

21 (b) Pursuant to section 218(p)(1) of the Social
 22 Security Act, the highway patrolmen's retirement system of
 23 the state of Montana, the public employees' retirement
 24 system of the state of Montana, and each municipal police
 25 reserve fund and each unit of the statewide police reserve

1 fund of the state of Montana are, for the purposes of this
 2 act, considered separate retirement systems with respect to
 3 the state and separate retirement systems with respect to
 4 each political subdivision having positions covered thereby.

5 (2) With respect to employees of the state other than
 6 highway patrolmen and with respect to highway patrolmen, the
 7 governor is empowered to authorize a referendum, and with
 8 respect to the employees of any political subdivision he
 9 shall authorize a referendum upon the request of the
 10 governing body of ~~such~~ the subdivisions; ~~and.~~

11 (3) ~~is~~ In either case the referendum shall be
 12 conducted, and the governor shall designate an agency or
 13 individual to supervise its conduct, in accordance with the
 14 requirements of section 218(d)(3) of the Social Security
 15 Act, on the question of whether service in positions covered
 16 by a retirement system established by the state or by a
 17 political subdivision thereof should be excluded from or
 18 included under this act.

19 (4) The notice of referendum required by section
 20 218(d)(3)(C) of the Social Security Act to be given to
 21 employees shall contain or shall be accompanied by a
 22 statement, in such form and such detail as the agency or
 23 individual designated to supervise the referendum ~~shall deem~~
 24 considers necessary and sufficient, ~~to inform~~ informing the
 25 employees of the rights which will accrue to them and their

1 dependents and survivors, and the liabilities to which they
 2 will be subject, if their services are included under an
 3 agreement under this act.

4 ~~(b) Pursuant to section 218 (p) (1) of the Social~~
 5 ~~Security Act, the highway patrolmen's retirement system of~~
 6 ~~the state of Montana, and the public employees' retirement~~
 7 ~~system of the state of Montana and the metropolitan police~~
 8 ~~retirement system of the various cities of Montana shall,~~
 9 ~~for the purposes of this act be deemed to constitute~~
 10 ~~separate retirement systems with respect to the state and~~
 11 ~~separate retirement systems with respect to each political~~
 12 ~~subdivision having positions covered thereby. With respect to~~
 13 ~~highway patrolmen of the state the governor is empowered to~~
 14 ~~authorize a referendum and with respect to the employees of~~
 15 ~~any political subdivision he shall authorize a referendum~~
 16 ~~upon request of the governing body of such subdivision and~~
 17 ~~in either case the referendum shall be conducted, and the~~
 18 ~~governor shall designate an agency or individual to~~
 19 ~~supervise its conduct, in accordance with the requirements~~
 20 ~~of section 218 (d) (3) of the Social Security Act, on the~~
 21 ~~question of whether service in positions covered by a~~
 22 ~~retirement system established by the state or by a political~~
 23 ~~subdivision thereof should be excluded from or included~~
 24 ~~under this act. The notice of referendum required by section~~
 25 ~~218 (d) (3) (C) of the Social Security Act to be given to~~

1 ~~employees shall contain or shall be accompanied by a~~
 2 ~~statement, in such form and such detail as the agency or~~
 3 ~~individual designated to supervise the referendum shall deem~~
 4 ~~necessary and sufficient, to inform the employees of the~~
 5 ~~rights which will accrue to them and their dependents and~~
 6 ~~survivors, and the liabilities to which they will be~~
 7 ~~subject, if their services are included under an agreement~~
 8 ~~under this act.~~

9 ~~(5)~~ Upon receiving evidence satisfactory to him
 10 that with respect to any such referendum the conditions
 11 specified in section 218(d)(3) of the Social Security Act
 12 have been met, the governor shall so certify to the
 13 secretary of health, education, and welfare."

14 Section 3. Section 59-1104, R.C.M. 1947, is amended to
 15 read as follows:

16 "59-1104. Plans for coverage of employees of political
 17 subdivisions. ~~(1)~~ Each political subdivision of the
 18 state shall submit for approval by the state agency a plan
 19 for extending the benefits of ~~title~~ Title II of the Social
 20 Security Act, in conformity with applicable provisions of
 21 such act, to employees of such political subdivision. ~~Each~~
 22 ~~such a~~ plan and any amendment thereof shall be approved by
 23 the state agency if it finds that ~~such the~~ the plan, or ~~such the~~
 24 plan as amended, is in conformity with such requirements as
 25 are provided in regulations of the state agency, ~~except~~

1 that,

2 ~~(2)~~ ~~no such~~ No plan shall may be approved unless:

3 ~~(1)~~ (a) it is in conformity with the requirements of
 4 the Social Security Act and with the agreement entered into
 5 under section 59-1103;

6 ~~(2)~~ (b) it provides that all services which constitute
 7 employment as defined in section 59-1102 and are performed
 8 in the employ of the political subdivisions by employees
 9 thereof, ~~shall will~~ be covered by the plan, except that it
 10 may exclude services performed by individuals to whom
 11 section 218(c)(3)(C) of the Social Security Act is
 12 applicable;

13 ~~(3)~~ (c) it specifies the ~~source or~~ sources from which
 14 the funds necessary to make the payments required by
 15 ~~paragraph (1) of subsection (c) and by subsection (d)~~
 16 ~~subsections (4)(a) and (5)~~ are expected to be derived and
 17 contains reasonable assurance that ~~such the~~ the sources will be
 18 adequate for such purpose;

19 ~~(4)~~ (d) it provides for such methods of administration
 20 of the plan by the political subdivision as are found by the
 21 state agency to be necessary for the proper and efficient
 22 administration of the plan;

23 ~~(5)~~ (e) it provides that the political subdivision will
 24 make such reports, in such form and containing such
 25 information, as the state agency may from time to time

1 require, and will comply with such provisions as the state
2 agency or the secretary of health, education, and welfare
3 may from time to time find necessary to assure the
4 correctness and verification of such reports;

5 ~~(6)~~ (f) it authorizes the state agency, in its
6 discretion, to terminate the plan in its entirety, ~~in the~~
7 ~~discretion of the state agency~~, if it finds that there has
8 been a failure to comply substantially with any provision
9 contained in ~~such~~ the plan, such termination to take effect
10 at the expiration of such notice and on such conditions as
11 may be provided by regulations of the state agency and may
12 be consistent with the provisions of the Social Security
13 Act.

14 ~~(b)~~ (3) The state agency ~~shall~~ may not finally refuse
15 to approve a plan submitted by a political subdivision under
16 subsection ~~(a)~~, (1) and ~~shall~~ may not terminate an approved
17 plan, without reasonable notice and opportunity for hearing
18 to the political subdivision affected thereby.

19 ~~(e)~~ ~~(4)~~ (4) (a) Each political subdivision as to which
20 a plan has been approved under this section shall pay, at
21 such time or times as the state agency may prescribe by
22 regulation, contributions with respect to wages (as defined
23 in section 59-1102), ~~at such time or times as the state~~
24 ~~agency may by regulation prescribe~~, contributions in the
25 amounts and at the rates specified in the applicable

1 agreement entered into by the state agency under ~~section~~
2 ~~59-1102, 59-1103~~.

3 ~~(2)~~ (b) Each political subdivision required to make
4 payment under ~~paragraph (1) of this subsection~~ subsection
5 (3)(a) shall, in consideration of the employee's retention
6 in, or entry upon, employment after enactment of this act,
7 impose upon each of its employees, as to services which are
8 covered by an approved plan, a contribution with respect to
9 his wages (as defined in ~~section~~ 59-1102), not exceeding the
10 amount of the employee tax which would be imposed by the
11 Federal Insurance Contributions Act if such services
12 constituted employment within the meaning of that act, and
13 ~~to~~ shall deduct the amount of such contributions from his
14 wages as and when paid. Contributions so collected ~~shall~~
15 partially discharge the liability of ~~such~~ the political
16 subdivision or instrumentality under ~~paragraph (1) of this~~
17 ~~subsection~~ subsection (4)(a). Failure to deduct ~~such~~ the
18 contribution ~~shall~~ does not relieve the employee or employer
19 of liability therefor.

20 ~~(4)~~ (5) Delinquent payments due under ~~paragraph (1) of~~
21 ~~subsection (e)~~ subsection (4)(a) may, with interest at the
22 rate of ~~six per centum (6%) per annum~~ a year, be recovered
23 by action in a court of competent jurisdiction against the
24 political subdivision liable therefor, or may, at the
25 request of the state agency, be deducted from any other

1 moneys payable to ~~each~~ the subdivision by any department,
2 agency, or fund of the state."

3 Section 4. Section 59-1105, R.C.M. 1947, is amended to
4 read as follows:

5 "59-1105. Contribution account. ~~(a) (1)~~ There is
6 hereby established, in place of the fund known as the
7 contribution fund, ~~a contribution account~~ an agency account
8 for the social security program in the agency fund, to be
9 known as the contribution account.

10 (2) Each The contribution account shall consist of and
11 there shall be deposited in such account:

12 ~~(1) (a)~~ all contributions, interest, and penalties
13 collected under ~~sections~~ 59-1103.1 and 59-1104;

14 ~~(2) (b)~~ all moneys appropriated thereto by the
15 ~~legislative assembly~~ legislature of the state of Montana;
16 and

17 ~~(3) (c)~~ all sums recovered upon the bond of the
18 custodian or otherwise for losses sustained by the account;
19 and

20 (d) all other moneys received for the account from any
21 other source.

22 (3) All moneys in the account shall be mingled and
23 undivided. Subject to the provisions of this act, the state
24 agency is vested with full power, authority, and
25 jurisdiction over the account, including all moneys and

1 property or securities belonging thereto; ~~it~~ . The board of
2 investments shall invest the ~~same~~ account in investments of
3 the same character as are permitted by ~~section 79-4202~~ of
4 ~~this code~~ 79-310 for the investment of moneys in the
5 long-term investment fund, ~~and The state agency~~ shall credit
6 all interest and income ~~heretofore or hereafter~~ earned
7 ~~thereon~~ on the account in excess of that which, in the its
8 judgment ~~of the state agency~~, may be needed for the purposes
9 set forth in ~~subdivision (b)~~ subsection (4) of this section,
10 to the earmarked revenue fund or funds of the state agency,
11 to be used by it either to defray the costs of administering
12 the state agency, or for distribution pro rata to the
13 contributing state departments, political subdivisions,
14 school districts, and instrumentalities, as it may
15 determine, ~~and, It~~ may perform any and all acts, whether or
16 not specifically designated, which are necessary to the
17 administration ~~thereof~~ of the account and are consistent
18 with the provisions of this act.

19 ~~(4) (4)~~ The contribution account shall be used and
20 administered exclusively for the purpose of this act.
21 Subject to the provisions of ~~subdivision (a)~~ subsection (3)
22 of this section, withdrawals from ~~each the~~ account shall be
23 made for, and solely for, ~~(1)~~ payment of amounts required to
24 be paid to the secretary of the treasury of the United
25 States pursuant to an agreement entered into under ~~section~~

1 59-1103, ~~(B)~~ payment of refunds provided for in ~~section~~
 2 59-1103.1, ~~(C)~~ and ~~(C)~~ refunds of overpayments, not otherwise
 3 adjustable, made by a political subdivision or
 4 instrumentality.

5 ~~(e)~~ (5) (a) From the contribution account the custodian
 6 of the account shall pay to the secretary of the treasury of
 7 the United States such amounts and at such time or times as
 8 may be directed by the state agency in accordance with any
 9 agreement entered into under ~~section 59-1103.1~~ 59-1103 and
 10 the Social Security Act.

11 ~~(d)~~ (b) The treasurer of the state shall pay all
 12 warrants drawn upon the state agency in accordance with the
 13 provisions of this section and with such regulations as the
 14 state agency may prescribe pursuant thereto.

15 ~~(e)~~ (6) Each department of the state shall include in
 16 its operating budget for the next succeeding fiscal year,
 17 prepared and delivered to the department of administration
 18 in accordance with the provisions of law, an estimate of the
 19 amount which it will be required to contribute to the
 20 contribution account."

21 Section 5. Section 59-1106, R.C.M. 1947, is amended to
 22 read as follows:

23 "59-1106. Costs of administration. All costs allocable
 24 to the administration of this chapter shall be charged to
 25 the earmarked revenue fund, ~~social security retirement~~

1 division account, ~~and so, So~~ such of ~~such the~~ costs as are
 2 not defrayed by interest and income earned upon the
 3 ~~contributions fund~~ contribution account, which has been
 4 credited to ~~said the~~ said earmarked revenue fund, ~~social security~~
 5 retirement division account, as provided in ~~section~~ 59-1105,
 6 shall be paid to the state agency for deposit to the
 7 earmarked revenue fund, ~~social security retirement~~ division
 8 account, by each department of the state and by the
 9 participating divisions, ~~and~~ instrumentalities, and
 10 political subdivisions of the state pro rata according to
 11 their respective contributions."

12 Section 6. Section 59-1109, R.C.M. 1947, is amended to
 13 read as follows:

14 "59-1109. ~~Supplementation of social security benefits~~
 15 Referendum by school district. ~~Any~~ A school district of the
 16 state, may, upon the approval thereof being voted by the
 17 board of trustees, conduct and supervise a referendum,
 18 pursuant to section 218 of the Federal Social Security Act,
 19 among the members of the staff and teachers of the school or
 20 schools under the jurisdiction of ~~such the~~ said board of
 21 trustees. If the majority of votes cast in ~~any such the~~ any
 22 referendum indicates that ~~said the~~ said staff and teachers
 23 approve, then ~~such the~~ said board of trustees shall certify to
 24 the ~~state department of revenue (or such other agency as may~~
 25 ~~be by legislation designated to administer such program and~~

1 ~~enter into agreements for extensions of social security~~
 2 ~~coverage)~~ department of administration that the conditions
 3 for coverage by social security, required by section 218 of
 4 the Social Security Act, have been complied with."

5 Section 7. Section 59-1110, R.C.M. 1947, is amended to
 6 read as follows:

7 "59-1110. Eligibility of staff and teachers — payroll
 8 deductions. ~~(1) Pursuant to such~~ Upon the certification
 9 provided for in 59-1109, the staff and teachers of ~~any such~~
 10 the district shall be are eligible for coverage under the
 11 provisions of the Federal Social Security Act, ~~and,~~

12 ~~(2) the~~ The fiscal officer of ~~each the~~ district shall
 13 thereafter collect the contributions required under the
 14 Federal Social Security Act, section 218, ~~by payroll~~
 15 ~~deduction~~ from the staff and teachers by payroll deduction
 16 and from the school district as employer, ~~and said, The~~
 17 funds ~~and accounts collected~~ shall be deposited with the
 18 ~~state department of revenue, or such other agency as may be~~
 19 ~~designated by the legislature to administer Social Security~~
 20 ~~Act coverage in this state,~~ department of administration and
 21 held in the ~~contributions' fund~~ contribution account as
 22 provided by ~~sections 59-1101 to through~~ 59-1108.

23 ~~(3)~~ For the purposes of this act, the contributions
 24 with respect to services, equivalent to the employer's tax
 25 established by the Federal Social Security Act, ~~shall be are~~

1 the first obligation against any state funds received for
 2 school support by any school district, high school district,
 3 or county high school, and shall ~~first~~ be paid therefrom
 4 before any other expenditure."

5 Section 8. Section 59-1111, R.C.M. 1947, is amended to
 6 read as follows:

7 "59-1111. ~~For purposes of act, each state institution~~
 8 ~~of higher education deemed to have a separate retirement~~
 9 ~~system referendum administration~~ Participation of
 10 institutions of higher education. ~~(a)(1)~~ For the purposes of
 11 this section ~~of this act, there shall be deemed to be the~~
 12 teachers' retirement system of the state of Montana is
 13 considered a separate retirement system ~~for the teachers of~~
 14 with respect to each state institution of higher education
 15 in Montana, and each ~~such~~ institution and the teachers
 16 therein shall be treated separately and independently from
 17 the other ~~such~~ institutions and teachers.

18 ~~(b)(2)~~ On request of the president of any ~~such an~~
 19 institution, the governor shall designate an agency or
 20 individual to give notice of and supervise a referendum in
 21 the retirement system for that institution in compliance
 22 with the ~~requisites therefore~~ requirements prescribed by
 23 section 218 of the ~~Federal~~ Social Security Act.

24 ~~(c)(3)~~ If the majority of votes cast in ~~any such the~~
 25 referendum indicates that the majority of voters desire it,

1 ~~then~~ the governor shall certify to the ~~federal~~ secretary of
 2 health, education, and welfare that ~~each of~~ the conditions
 3 set forth in section 218 of the Social Security Act ~~has~~ have
 4 been complied with in respect to the retirement system
 5 voting in ~~that~~ the referendum.

6 ~~(4)~~ (4) Upon ~~such~~ certification, the governor shall
 7 designate an official to enter into an agreement, ~~for a~~
 8 modification or supplement to an existing agreement, ~~or both~~
 9 ~~such a~~ modification and a supplement, with the appropriate
 10 officers of the federal government, pursuant to section 218
 11 of the ~~said~~ Social Security Act, to secure coverage
 12 thereunder for the retirement system with respect to which
 13 ~~such~~ certification has been made. ~~Such agreements~~ An
 14 agreement may be made retroactive to the extent permissible
 15 under the Social Security Act.

16 ~~(5)~~ (5) The fiscal officer for ~~each~~ an institution for
 17 whose retirement system an agreement has been ~~so~~ made shall
 18 collect the contributions required by ~~said~~ section 218, as
 19 follows:

20 ~~(1)~~ (a) from the teachers in the retirement system of
 21 that institution, by payroll deductions; and

22 ~~(2)~~ (b) ~~for~~ from the state, from any appropriations to
 23 the institution involved for salaries, or ~~otherwise made~~
 24 ~~available, to the institution involved~~ other purposes.

25 (6) In the absence of a specific provision in the

1 appropriations for, or budget of, ~~such~~ an institution for
 2 such contributions, the ~~state board of education~~ board of
 3 regents of higher education shall designate the funds from
 4 which ~~any such~~ the required contributions ~~shall~~ will be made
 5 and the budgetary items to which they ~~shall~~ will be
 6 allocated.

7 ~~(6)~~ (7) In the event that any relevant provisions of
 8 federal law are amended or superseded, then the provisions
 9 hereof which relate to such law shall be applied to ~~such~~ the
 10 amended law or ~~such~~ the superseding law."

11 Section 9. Section 59-1112, R.C.M. 1947, is amended to
 12 read as follows:

13 "59-1112. ~~Social security coverage not to prejudice~~
 14 ~~other~~ No effect on rights under other laws. Nothing in this
 15 act ~~shall~~ may be construed to prejudice or otherwise affect
 16 any rights, benefits, or privileges heretofore accrued under
 17 any other law of this state, ~~it being~~. It is the intent of
 18 this legislation to permit supplementation of present
 19 retirement benefits under existing law with social security
 20 benefits, ~~and~~. It is also the intent to permit ~~members of~~
 21 ~~teaching or staff personnel~~ teachers and staff in any
 22 district or institution of higher education, so electing, to
 23 become ~~a member~~ members of more than one retirement system,
 24 to receive credit under more than one system for the same
 25 service, and to receive benefits from more than one ~~such~~

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1 system, ~~and no, no~~ benefits received under either system
2 shall may be deducted from any other or separate system."

-End-

1 HOUSE BILL NO. 35
 2 INTRODUCED BY BARDANOUVE

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO COVERAGE FOR MONTANA PUBLIC
 6 EMPLOYEES UNDER FEDERAL SOCIAL SECURITY; AMENDING SECTIONS
 7 59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
 8 59-1110, 59-1111, AND 59-1112, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 59-1102, R.C.M. 1947, is amended to
 12 read as follows:

13 "59-1102. Definitions. For the purposes of this act—
 14 the following definitions apply:

15 ~~(a)~~ (1) The term "wages" means all remuneration for
 16 employment as defined herein, including the cash value of
 17 all remuneration paid in any medium other than cash, except
 18 that ~~such~~ the term ~~shall~~ does not include that part of ~~such~~
 19 remuneration which, even if it were for "employment" within
 20 the meaning of the Federal Insurance Contributions Act,
 21 would not constitute "wages" within the meaning of that
 22 act.

23 ~~(b)~~ (2) (a) The term "employment" means any service
 24 performed by an employee in the employ of the state, or any
 25 political subdivision thereof, for such employer, except:

1 ~~(1)~~ (i) service which in the absence of an agreement
 2 entered into under this act would constitute "employment" as
 3 defined in the Social Security Act; or

4 ~~(2)~~ (ii) service which under the Social Security Act may
 5 not be included in an agreement between the state and the
 6 secretary of health, education, and welfare entered into
 7 under this act.

8 (b) Service performed by civilian employees of
 9 national guard units is specifically included within the
 10 term "employment."

11 (c) Service which under the Social Security Act may be
 12 included in an agreement only upon certification by the
 13 governor in accordance with section 218(d)(3) of that act
 14 ~~shall be~~ is included in the term "employment" if and when
 15 the governor issues, with respect to such service, a
 16 certificate to the secretary of health, education, and
 17 welfare pursuant to ~~section 59-1102.1~~ ~~(b)~~ (5).

18 ~~(c)~~ (3) The term "employee" includes an elective or
 19 appointive officer or employee of the state or a political
 20 subdivision thereof.

21 ~~(d)~~ (4) The term "state agency" means the board of
 22 administration of the public employees' retirement system of
 23 the state of Montana.

24 ~~(e)~~ (5) The term "secretary of health, education, and
 25 welfare" means the secretary of the United States department

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1 of health, education, and welfare; and includes any
 2 individual to whom the secretary of health, education, and
 3 welfare has delegated any of his functions under the Social
 4 Security Act with respect to coverage under ~~such that~~ act of
 5 employees of states and their political subdivisions; and,
 6 with respect to any action taken prior to April 11, 1953,
 7 includes the federal security administrator and any
 8 individual to whom ~~such the~~ administrator had delegated any
 9 such function.

10 ~~(6)~~ (6) The term "political subdivision" includes an
 11 instrumentality of the state, of one or more of its
 12 political subdivisions, or of the state and one or more of
 13 its political subdivisions, including leagues or
 14 associations thereof, but only if ~~such the~~ instrumentality
 15 is a juristic entity which is legally separate and distinct
 16 from the state or subdivision and only if its employees are
 17 not by virtue of their relation to ~~such the~~ juristic entity
 18 employees of the state or subdivision. The term ~~shall~~
 19 ~~include~~ includes special districts or authorities created by
 20 the legislature or local governments, such as, but not
 21 limited to, school districts, housing authorities, etc.

22 ~~(7)~~ (7) The term "Social Security Act" means the act of
 23 Congress congress approved August 14, 1935, chapter 531, 49
 24 Stat. 620, officially cited as the "Social Security Act,"
 25 ~~including~~ regulations and requirements issued pursuant

1 thereto, as such act has been and may from time to time be
 2 amended; ~~and.~~

3 ~~(8)~~ (8) The term "Federal Insurance Contributions Act"
 4 means subchapter A of chapter 9 of the Federal Internal
 5 Revenue Code of 1939 and subchapters A and B of chapter 21
 6 of the Federal Internal Revenue Code of 1954, as such codes
 7 have been and may from time to time be amended; and the term
 8 "employee tax" means the tax imposed by section 1400 of such
 9 Code of 1939 and section 3101 of such Code of 1954, and as
 10 such codes may from time to time be amended."

11 Section 2. Section 59-1102.1, R.C.M. 1947, is amended
 12 to read as follows:

13 "59-1102.1. Referendum and certification.
 14 (1) (a) Pursuant to section 218(d)(6) of the Social
 15 Security Act, the public employees' retirement system of the
 16 state of Montana ~~shall be~~, for the purposes of this act, ~~be~~
 17 ~~deemed to constitute~~ considered a separate retirement system
 18 with respect to the state and a separate retirement system
 19 with respect to each political subdivision having positions
 20 covered thereby.

21 (b) Pursuant to section 218(p)(1) of the Social
 22 Security Act, the highway patrolmen's retirement system of
 23 the state of Montana, the public employees' retirement
 24 system of the state of Montana, and each municipal police
 25 reserve fund and each unit of the statewide police reserve

1 ~~fund of the state of Montana are, for the purposes of this~~
 2 ~~act, considered separate retirement systems with respect to~~
 3 ~~the state and separate retirement systems with respect to~~
 4 ~~each political subdivision having positions covered thereby.~~

5 [2] With respect to employees of the state ~~other than~~
 6 ~~highway patrolmen and with respect to highway patrolmen,~~ the
 7 governor is empowered to authorize a referendum, and with
 8 respect to the employees of any political subdivision he
 9 shall authorize a referendum upon ~~the~~ request of the
 10 governing body of ~~such the~~ subdivisions ~~and.~~

11 [3] ~~is~~ In either case the referendum shall be
 12 conducted, and the governor shall designate an agency or
 13 individual to supervise its conduct, in accordance with the
 14 requirements of section 218(d)(3) of the Social Security
 15 Act, on the question of whether service in positions covered
 16 by a retirement system established by the state or by a
 17 political subdivision thereof should be excluded from or
 18 included under this act.

19 [4] The notice of referendum required by section
 20 218(d)(3)(C) of the Social Security Act to be given to
 21 employees shall contain or shall be accompanied by a
 22 statement, in such form and such detail as the agency or
 23 individual designated to supervise the referendum ~~shall deem~~
 24 ~~considers~~ necessary and sufficient, ~~to inform~~ informing the
 25 employees of the rights which will accrue to them and their

1 dependents and survivors, and the liabilities to which they
 2 will be subject, if their services are included under an
 3 agreement under this act.

4 ~~(b) Pursuant to section 218 (p) (1) of the Social~~
 5 ~~Security Act, the highway patrolmen's retirement system of~~
 6 ~~the state of Montana, and the public employees' retirement~~
 7 ~~system of the state of Montana and the metropolitan police~~
 8 ~~retirement system of the various cities of Montana shall,~~
 9 ~~for the purpose of this act be deemed to constitute~~
 10 ~~separate retirement systems with respect to the state and~~
 11 ~~separate retirement systems with respect to each political~~
 12 ~~subdivision having positions covered thereby. With respect to~~
 13 ~~highway patrolmen of the state the governor is empowered to~~
 14 ~~authorize a referendum and with respect to the employees of~~
 15 ~~any political subdivision he shall authorize a referendum~~
 16 ~~upon request of the governing body of such subdivision and~~
 17 ~~in either case the referendum shall be conducted, and the~~
 18 ~~governor shall designate an agency or individual to~~
 19 ~~supervise its conduct, in accordance with the requirements~~
 20 ~~of section 218 (d) (3) of the Social Security Act, on the~~
 21 ~~question of whether service in positions covered by a~~
 22 ~~retirement system established by the state or by a political~~
 23 ~~subdivision thereof should be excluded from or included~~
 24 ~~under this act. The notice of referendum required by section~~
 25 ~~218 (d) (2) (C) of the Social Security Act to be given to~~

1 ~~employees shall contain or shall be accompanied by a~~
 2 ~~statement, in such form and such detail as the agency or~~
 3 ~~individual designated to supervise the referendum shall deem~~
 4 ~~necessary and sufficient, to inform the employees of the~~
 5 ~~rights which will accrue to them and their dependents and~~
 6 ~~survivors, and the liabilities to which they will be~~
 7 ~~subject, if their services are included under an agreement~~
 8 ~~under this act.~~

9 ~~(e)(5)~~ Upon receiving evidence satisfactory to him
 10 that with respect to any such referendum the conditions
 11 specified in section 218(d)(3) of the Social Security Act
 12 have been met, the governor shall so certify to the
 13 secretary of health, education, and welfare."

14 Section 3. Section 59-1104, R.C.M. 1947, is amended to
 15 read as follows:

16 "59-1104. Plans for coverage of employees of political
 17 subdivisions. ~~(a)(1)~~ Each political subdivision of the
 18 state shall submit for approval by the state agency a plan
 19 for extending the benefits of ~~title~~ Title II of the Social
 20 Security Act, in conformity with applicable provisions of
 21 such act, to employees of such political subdivision. ~~Each~~
 22 ~~such a~~ plan and any amendment thereof shall be approved by
 23 the state agency if it finds that ~~such the~~ the plan, or ~~such the~~
 24 plan as amended, is in conformity with such requirements as
 25 are provided in regulations of the state agency, ~~except~~

1 that,

2 ~~(2)~~ ~~no such~~ no plan shall ~~may~~ be approved unless:

3 ~~(1)(a)~~ it is in conformity with the requirements of
 4 the Social Security Act and with the agreement entered into
 5 under section 59-1103;

6 ~~(2)(b)~~ it provides that all services which constitute
 7 employment as defined in section 59-1102 and are performed
 8 in the employ of the political subdivisions by employees
 9 thereof, ~~shall will~~ be covered by the plan, except that it
 10 may exclude services performed by individuals to whom
 11 section 218(c)(3)(C) of the Social Security Act is
 12 applicable;

13 ~~(3)(c)~~ it specifies the ~~source or~~ sources from which
 14 the funds necessary to make the payments required by
 15 ~~paragraph (1) of subsection (c) and by subsection (d)~~
 16 ~~subsections (4)(a) and (5)~~ are expected to be derived and
 17 contains reasonable assurance that ~~such the~~ the sources will be
 18 adequate for such purpose;

19 ~~(4)(d)~~ it provides for such methods of administration
 20 of the plan by the political subdivision as are found by the
 21 state agency to be necessary for the proper and efficient
 22 administration of the plan;

23 ~~(5)(e)~~ it provides that the political subdivision will
 24 make such reports, in such form and containing such
 25 information, as the state agency ~~may~~ may from time to time

1 require, and will comply with such provisions as the state
2 agency or the secretary of health, education, and welfare
3 may from time to time find necessary to assure the
4 correctness and verification of such reports;

5 ~~(6)~~ (f) it authorizes the state agency, in its
6 discretion, to terminate the plan in its entirety, ~~in the~~
7 ~~discretion of the state agency~~, if it finds that there has
8 been a failure to comply substantially with any provision
9 contained in ~~each~~ the plan, such termination to take effect
10 at the expiration of such notice and on such conditions as
11 may be provided by regulations of the state agency and may
12 be consistent with the provisions of the Social Security
13 Act.

14 ~~(b)~~ (3) The state agency ~~shall~~ may not finally refuse
15 to approve a plan submitted by a political subdivision under
16 subsection ~~(a)~~ (1) and ~~shall~~ may not terminate an approved
17 plan, without reasonable notice and opportunity for hearing
18 to the political subdivision affected thereby.

19 ~~(e)~~ ~~(4)~~ (4) (a) Each political subdivision as to which
20 a plan has been approved under this section shall pay, at
21 such time or times as the state agency may prescribe by
22 regulation, contributions with respect to wages (as defined
23 in ~~section~~ section 59-1102), ~~at such time or times as the state~~
24 ~~agency may by regulation prescribe~~, contributions in the
25 amounts and at the rates specified in the applicable

1 agreement entered into by the state agency under ~~section~~
2 ~~59-1102~~ 59-1103.

3 ~~(2)~~ (b) Each political subdivision required to make
4 payment under ~~paragraph (1) of this subsection~~ subsection
5 (4) (a) shall, in consideration of the employee's retention
6 in, or entry upon, employment after enactment of this act,
7 impose upon each of its employees, as to services which are
8 covered by an approved plan, a contribution with respect to
9 his wages (as defined in ~~section~~ section 59-1102), not exceeding the
10 amount of the employee tax which would be imposed by the
11 Federal Insurance Contributions Act if such services
12 constituted employment within the meaning of that act, and
13 ~~to~~ shall deduct the amount of such contributions from his
14 wages as and when paid. Contributions so collected ~~shall~~
15 partially discharge the liability of ~~each~~ the political
16 subdivision or instrumentality under ~~paragraph (1) of this~~
17 ~~subsection~~ subsection (4) (a). Failure to deduct ~~each~~ the
18 contribution ~~shall~~ does not relieve the employee or employer
19 of liability therefor.

20 ~~(4)~~ (5) Delinquent payments due under ~~paragraph (1) of~~
21 ~~subsection (e)~~ subsection (4) (a) may, with interest at the
22 rate of ~~six per centum (6%) per annum a year~~, be recovered
23 by action in a court of competent jurisdiction against the
24 political subdivision liable therefor, or may, at the
25 request of the state agency, be deducted from any other

1 moneys payable to ~~each~~ the subdivision by any department,
2 agency, or fund of the state."

3 Section 4. Section 59-1105, R.C.M. 1947, is amended to
4 read as follows:

5 "59-1105. Contribution account. ~~(a)~~ (1) There is
6 hereby established, in place of the fund known as the
7 contribution fund, ~~a contribution account~~ an agency account
8 for the social security program in the agency fund, to be
9 known as the contribution account.

10 (2) ~~Each~~ The contribution account shall consist of and
11 there shall be deposited in such account:

12 ~~(a)~~ (a) all contributions, interest, and penalties
13 collected under ~~sections~~ 59-1103.1 and 59-1104;

14 ~~(b)~~ (b) all moneys appropriated thereto by 'the
15 ~~legislative assembly~~ legislature of the state of Montana;
16 and

17 ~~(c)~~ (c) all sums recovered upon the bond of the
18 custodian or otherwise for losses sustained by the account;
19 and

20 (d) all other moneys received for the account from any
21 other source.

22 (3) All moneys in the account shall be mingled and
23 undivided. Subject to the provisions of this act, the state
24 agency is vested with full power, authority, and
25 jurisdiction over the account, including all moneys and

1 property or securities belonging thereto, ~~it~~. The board of
2 investments shall invest the ~~same~~ account in investments of
3 the same character as are permitted by ~~section 79-1202~~ of
4 ~~this code~~ 79-310 for the investment of moneys in the
5 long-term investment fund, and The state agency shall credit
6 all interest and income ~~heretofore or hereafter~~ earned
7 ~~thereon~~ on the account in excess of that which, in ~~the~~ its
8 judgment ~~of the state agency~~, may be needed for the purposes
9 set forth in ~~subdivision (b)~~ subsection (4) of this section,
10 to the earmarked revenue fund or funds of the state agency,
11 to be used by it either to defray the costs of administering
12 the state agency, or for distribution pro rata to the
13 contributing state departments, political subdivisions,
14 school districts, and instrumentalities, as it may
15 determine, ~~and~~, it may perform any and all acts, whether or
16 not specifically designated, which are necessary to the
17 administration ~~thereof~~ of the account and are consistent
18 with the provisions of this act.

19 ~~(b)~~ (4) The contribution account shall be used and
20 administered exclusively for the purpose of this act.
21 Subject to the provisions of ~~subdivision (a)~~ subsection (3)
22 of this section, withdrawals from ~~each~~ the account shall be
23 made for, and solely for, ~~(a)~~ payment of amounts required to
24 be paid to the secretary of the treasury of the United
25 States pursuant to an agreement entered into under ~~section~~

1 59-1103~~4~~ ~~(B)~~ payment of refunds provided for in ~~section~~
 2 59-1103.1~~4~~ and ~~(C)~~ refunds of overpayments, not otherwise
 3 adjustable, made by a political subdivision or
 4 instrumentality.

5 ~~(e)~~ (5) (a) From the contribution account the custodian
 6 of the account shall pay to the secretary of the treasury of
 7 the United States such amounts and at such time or times as
 8 may be directed by the state agency in accordance with any
 9 agreement entered into under ~~section 59-1102~~ 59-1103 and
 10 the Social Security Act.

11 ~~(d)~~ (b) The treasurer of the state shall pay all
 12 warrants drawn upon the state agency in accordance with the
 13 provisions of this section and with such regulations as the
 14 state agency may prescribe pursuant thereto.

15 ~~(e)~~ (6) Each department of the state shall include in
 16 its operating budget for the next succeeding fiscal year,
 17 prepared and delivered to the department of administration
 18 in accordance with the provisions of law, an estimate of the
 19 amount which it will be required to contribute to the
 20 contribution account."

21 Section 5. Section 59-1106, R.C.M. 1947, is amended to
 22 read as follows:

23 "59-1106. Costs of administration. All costs allocable
 24 to the administration of this chapter shall be charged to
 25 the earmarked revenue fund, ~~social security retirement~~

1 division account, ~~and so, so~~ such of ~~each~~ the costs as are
 2 not defrayed by interest and income earned upon the
 3 ~~contributions fund~~ contribution account, which has been
 4 credited to ~~said~~ the earmarked revenue fund, ~~social security~~
 5 retirement division account, as provided in ~~section 59-1105~~,
 6 shall be paid to the state agency for deposit to the
 7 earmarked revenue fund, ~~social security retirement~~
 8 account, by each department of the state and by the
 9 participating divisions, ~~and~~ instrumentalities, and
 10 political subdivisions of the state pro rata according to
 11 their respective contributions."

12 Section 6. Section 59-1109, R.C.M. 1947, is amended to
 13 read as follows:

14 "59-1109. ~~Supplementation of social security benefits~~
 15 Referenda by school district. ~~Any~~ A school district of the
 16 state, may, upon the approval thereof being voted by the
 17 board of trustees, conduct and supervise a referendum,
 18 pursuant to section 218 of the Federal Social Security Act,
 19 among the members of the staff and teachers of the school or
 20 schools under the jurisdiction of ~~such~~ the board of
 21 trustees. If the majority of votes cast in ~~any~~ such the
 22 referendum indicates that ~~said~~ the staff and teachers
 23 approve, then ~~such~~ the board of trustees shall certify to
 24 the ~~state department of revenue (or such other agency as may~~
 25 ~~be by legislation designated to administer such program and~~

1 ~~enter into agreements for extensions of social security~~
 2 ~~coverage)~~ department of administration that the conditions
 3 for coverage by social security, required by section 218 of
 4 the Social Security Act, have been complied with."

5 Section 7. Section 59-1110, R.C.M. 1947, is amended to
 6 read as follows:

7 "59-1110. Eligibility of staff and teachers — payroll
 8 deductions. ~~(1) Pursuant to each~~ Upon the certification
 9 provided for in 59-1109, the staff and teachers of ~~any such~~
 10 ~~the~~ district ~~shall be~~ are eligible for coverage under the
 11 provisions of the Federal Social Security Act, ~~and,~~

12 ~~(2) the~~ The fiscal officer of ~~each the~~ district shall
 13 thereafter collect the contributions required under the
 14 Federal Social Security Act, section 218, ~~by payroll~~
 15 ~~deduction~~ from the staff and teachers by payroll deduction
 16 and from the school district as employer, ~~and said,~~ The
 17 ~~funds and accounts collected~~ shall be deposited with the
 18 ~~state department of revenue, or such other agency as may be~~
 19 ~~designated by the legislature to administer Social Security~~
 20 ~~act coverage in this state,~~ department of administration and
 21 held in the ~~contributions' fund~~ contribution account as
 22 provided by ~~sections 59-1101 to through~~ 59-1108.

23 ~~(3)~~ For the purposes of this act, the contributions
 24 with respect to services, equivalent to the employer's tax
 25 established by the Federal Social Security Act, ~~shall be~~ are

1 the first obligation against any state funds received for
 2 school support by any school district, high school district,
 3 or county high school, and shall ~~first~~ be paid therefrom
 4 before any other expenditure."

5 Section 8. Section 59-1111, R.C.M. 1947, is amended to
 6 read as follows:

7 "59-1111. ~~For purposes of act, each state institution~~
 8 ~~of higher education deemed to have a separate retirement~~
 9 ~~system referendum administration~~ Participation of
 10 institutions of higher education. ~~(a)(1)~~ For the purposes of
 11 this section of this act, ~~there shall be deemed to be the~~
 12 ~~teachers' retirement system of the state of Montana is~~
 13 considered a separate retirement system ~~for the teachers of~~
 14 with respect to each state institution of higher education
 15 in Montana, and each ~~each~~ institution and the teachers
 16 therein shall be treated separately and independently from
 17 the other ~~each~~ institutions and teachers.

18 ~~(b)(2)~~ On request of the president of ~~any such an~~
 19 institution, the governor shall designate an agency or
 20 individual to give notice of and supervise a referendum in
 21 the retirement system for that institution in compliance
 22 with the ~~requisites therefore~~ requirements prescribed by
 23 section 218 of the Federal Social Security Act.

24 ~~(c)(3)~~ If the majority of votes cast in ~~any such the~~
 25 referendum indicates that the majority of voters desire it,

1 ~~then~~ the governor shall certify to the ~~federal~~ secretary of
 2 health, education, and welfare that ~~each of~~ the conditions
 3 set forth in section 218 of the Social Security Act ~~has~~ have
 4 been complied with in respect to the retirement system
 5 voting in ~~that~~ the referendum.

6 ~~(4)(9)~~ Upon ~~such~~ certification, the governor shall
 7 designate an official to enter into an agreement, ~~for~~ a
 8 modification or supplement to an existing agreement, ~~or~~ both
 9 ~~such a~~ modification and a supplement, ~~with~~ the appropriate
 10 officers of the federal government, pursuant to section 218
 11 of the ~~said~~ Social Security Act, to secure coverage
 12 thereunder for the retirement system with respect to which
 13 ~~such~~ certification has been made. ~~Such agreements~~ An
 14 agreement may be made retroactive to the extent permissible
 15 under the Social Security Act.

16 ~~(4)(5)~~ The fiscal officer for ~~each~~ an institution for
 17 whose retirement system an agreement has been ~~so~~ made shall
 18 collect the contributions required by ~~said~~ section 218, as
 19 follows:

20 ~~(4)(a)~~ from the teachers in the retirement system of
 21 that institution, by payroll deductions; and

22 ~~(2)(b)~~ ~~for~~ from the state, from any appropriations to
 23 the institution involved for salaries, or ~~otherwise made~~
 24 ~~available, to the institution involved~~ other purposes.

25 (6) In the absence of a specific provision in the

1 appropriations for, or budget of, ~~such~~ an institution for
 2 such contributions, the ~~state board of education~~ board of
 3 regents of higher education shall designate the funds from
 4 which ~~any such~~ the required contributions shall will be made
 5 and the budgetary items to which they shall will be
 6 allocated.

7 ~~(4)(7)~~ In the event that any relevant provisions of
 8 federal law are amended or superseded, then the provisions
 9 hereof which relate to such law shall be applied to ~~such~~ the
 10 amended law or ~~such~~ the superseding law."

11 Section 9. Section 59-1112, R.C.M. 1947, is amended to
 12 read as follows:

13 "59-1112. ~~Social security coverage not to prejudice~~
 14 ~~other~~ No effect on rights under other laws. Nothing in this
 15 act shall may be construed to prejudice or otherwise affect
 16 any rights, benefits, or privileges heretofore accrued under
 17 any other law of this state, ~~it being, It is~~ the intent of
 18 this legislation to permit supplementation of present
 19 retirement benefits under existing law with social security
 20 benefits, ~~and, It is also the intent~~ to permit ~~members of~~
 21 ~~teaching or staff personnel~~ teachers and staff in any
 22 district or institution of higher education, so electing, to
 23 become ~~a member~~ members of more than one retirement system,
 24 to receive credit under more than one system for the same
 25 service, and to receive benefits from more than one ~~such~~

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- 1 ~~system, and no~~ no benefits received under either system
- 2 ~~shall~~ may be deducted from any other or separate system."

-End-

1 HOUSE BILL NO. 35

2 INTRODUCED BY BARDANOUVE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO COVERAGE FOR MONTANA PUBLIC
6 EMPLOYEES UNDER FEDERAL SOCIAL SECURITY; AMENDING SECTIONS
7 59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
8 59-1110, 59-1111, AND 59-1112, R.C.M. 1947."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 59-1102, R.C.M. 1947, is amended to
12 read as follows:

13 "59-1102. Definitions. For the purposes of this act--
14 the following definitions apply:

15 ~~(a)(1)~~ The term "wages" means all remuneration for
16 employment as defined herein, including the cash value of
17 all remuneration paid in any medium other than cash, except
18 that ~~such~~ the term shall does not include that part of such
19 remuneration which, even if it were for "employment" within
20 the meaning of the Federal Insurance Contributions Act,
21 would not constitute "wages" within the meaning of that
22 act.

23 ~~(b)(2)(a)~~ The term "employment" means any service
24 performed by an employee in the employ of the state, or any
25 political subdivision thereof, for such employer, except:

1 ~~(1)(i)~~ service which in the absence of an agreement
2 entered into under this act would constitute "employment" as
3 defined in the Social Security Act; or

4 ~~(2)(ii)~~ service which under the Social Security Act may
5 not be included in an agreement between the state and the
6 secretary of health, education, and welfare entered into
7 under this act.

8 (b) Service performed by civilian employees of
9 national guard units is specifically included within the
10 term "employment".

11 (c) Service which under the Social Security Act may be
12 included in an agreement only upon certification by the
13 governor in accordance with section 218(d)(3) of that act
14 ~~shall~~ is included in the term "employment" if and when
15 the governor issues, with respect to such service, a
16 certificate to the secretary of health, education, and
17 welfare pursuant to section 59-1102.1~~(b)(5)~~.

18 ~~(c)(3)~~ The term "employee" includes an elective or
19 appointive officer or employee of the state or a political
20 subdivision thereof.

21 ~~(d)(4)~~ The term "state agency" means the board of
22 administration of the public employees' retirement system of
23 the state of Montana.

24 ~~(e)(5)~~ The term "secretary of health, education, and
25 welfare" means the secretary of the United States department

REFERENCE BILL

1 of health, education, and welfare and includes any
 2 individual to whom the secretary of health, education, and
 3 welfare has delegated any of his functions under the Social
 4 Security Act with respect to coverage under such ~~that~~ act of
 5 employees of states and their political subdivisions; and
 6 with respect to any action taken prior to April 11, 1953,
 7 includes the federal security administrator and any
 8 individual to whom such ~~the~~ administrator had delegated any
 9 such function.

10 ~~(f)(6)~~ The term "political subdivision" includes an
 11 instrumentality of the state, of one or more of its
 12 political subdivisions, or of the state and one or more of
 13 its political subdivisions, including leagues or
 14 associations thereof, but only if such ~~the~~ instrumentality
 15 is a juristic entity which is legally separate and distinct
 16 from the state or subdivision and only if its employees are
 17 not by virtue of their relation to such ~~the~~ juristic entity
 18 employees of the state or subdivision. The term ~~shall~~
 19 ~~include~~ includes special districts or authorities created by
 20 the legislature or local governments, such as, but not
 21 limited to, school districts, housing authorities, etc.

22 ~~(g)(1)~~ The term "Social Security Act" means the act of
 23 Congress congress approved August 14, 1935, chapter 531, 49
 24 Stat. 620, officially cited as the "Social Security Act";
 25 including regulations and requirements issued pursuant

1 thereto, as such act has been and may from time to time be
 2 amended ~~and~~.

3 ~~(h)(8)~~ The term "Federal Insurance Contributions Act"
 4 means subchapter A of chapter 9 of the Federal Internal
 5 Revenue Code of 1939 and subchapters A and B of chapter 21
 6 of the Federal Internal Revenue Code of 1954, as such codes
 7 have been and may from time to time be amended; and the term
 8 "employee tax" means the tax imposed by section 1400 of such
 9 Code of 1939 and section 3101 of such Code of 1954, and as
 10 such codes may from time to time be amended.

11 Section 2. Section 59-1102.1, R.C.M. 1947, is amended
 12 to read as follows:

13 "59-1102.1. Referendum and certification.
 14 (1) (a) Pursuant to section 218(d)(6) of the Social
 15 Security Act, the public employees' retirement system of the
 16 state of Montana ~~shall~~ is, for the purposes of this act, be
 17 ~~deemed to constitute~~ considered a separate retirement system
 18 with respect to the state and a separate retirement system
 19 with respect to each political subdivision having positions
 20 covered thereby.

21 ~~(b) Pursuant to section 218(p)(1) of the Social~~
 22 ~~Security Act, the highway patrolmen's retirement system of~~
 23 ~~the state of Montana, the public employees' retirement~~
 24 ~~system of the state of Montana, and each municipal police~~
 25 ~~reserve fund and each unit of the statewide police reserve~~

1 fund of the state of Montana are, for the purposes of this
 2 act, considered separate retirement systems with respect to
 3 the state and separate retirement systems with respect to
 4 each political subdivision having positions covered thereby.

5 (2) With respect to employees of the state other than
 6 highway patrolmen and with respect to highway patrolmen, the
 7 governor is empowered to authorize a referendum, and with
 8 respect to the employees of any political subdivision he
 9 shall authorize a referendum upon the request of the
 10 governing body of such the subdivision and.

11 (3) in In either case the referendum shall be
 12 conducted, and the governor shall designate an agency or
 13 individual to supervise its conduct, in accordance with the
 14 requirements of section 218(d)(3) of the Social Security
 15 Act, on the question of whether service in positions covered
 16 by a retirement system established by the state or by a
 17 political subdivision thereof should be excluded from or
 18 included under this act.

19 (4) The notice of referendum required by section
 20 218(d)(3)(C) of the Social Security Act to be given to
 21 employees shall contain or shall be accompanied by a
 22 statement, in such form and such detail as the agency or
 23 individual designated to supervise the referendum shall deem
 24 considers necessary and sufficient, to inform informing the
 25 employees of the rights which will accrue to them and their

1 dependents and survivors, and the liabilities to which they
 2 will be subject, if their services are included under an
 3 agreement under this act.

4 ~~(b) Pursuant to section 218(p)(1) of the Social~~
 5 ~~Security Act, the highway patrolmen's retirement system of~~
 6 ~~the state of Montana and the public employees' retirement~~
 7 ~~system of the state of Montana and the metropolitan police~~
 8 ~~retirement system of the various cities of Montana shall~~
 9 ~~for the purposes of this act be deemed to constitute~~
 10 ~~separate retirement systems with respect to the state and~~
 11 ~~separate retirement systems with respect to each political~~
 12 ~~subdivision having portions covered thereby. With respect to~~
 13 ~~highway patrolmen of the state the governor is empowered to~~
 14 ~~authorize a referendum and with respect to the employees of~~
 15 ~~any political subdivision he shall authorize a referendum~~
 16 ~~upon request of the governing body of such subdivision and~~
 17 ~~in either case the referendum shall be conducted, and the~~
 18 ~~governor shall designate an agency or individual to~~
 19 ~~supervise its conduct in accordance with the requirements~~
 20 ~~of section 218(d)(3) of the Social Security Act, on the~~
 21 ~~question of whether service in positions covered by a~~
 22 ~~retirement system established by the state or by a political~~
 23 ~~subdivision thereof should be excluded from or included~~
 24 ~~under this act. The notice of referendum required by section~~
 25 ~~218(d)(3)(C) of the Social Security Act to be given to~~

1 ~~employees shall contain or shall be accompanied by a~~
 2 ~~statement in such form and such detail as the agency or~~
 3 ~~individual designated to supervise the referendum shall deem~~
 4 ~~necessary and sufficient to inform the employees of the~~
 5 ~~rights which will accrue to them and their dependents and~~
 6 ~~survivors and the liabilities to which they will be~~
 7 ~~subject if their services are included under an agreement~~
 8 ~~under this act.~~

9 ~~(c)(5)~~ Upon receiving evidence satisfactory to him
 10 that with respect to any such referendum the conditions
 11 specified in section 218(d)(3) of the Social Security Act
 12 have been met, the governor shall so certify to the
 13 secretary of health, education, and welfare."

14 Section 3. Section 59-1104, R.C.M. 1947, is amended to
 15 read as follows:

16 "59-1104. Plans for coverage of employees of political
 17 subdivisions. ~~(c)(1)~~ Each political subdivision of the
 18 state shall submit for approval by the state agency a plan
 19 for extending the benefits of ~~title~~ Title II of the Social
 20 Security Act, in conformity with applicable provisions of
 21 such act, to employees of such political subdivision. Each
 22 ~~such~~ A plan and any amendment thereof shall be approved by
 23 the state agency if it finds that ~~such the~~ plan, or ~~such the~~
 24 plan as amended, is in conformity with such requirements as
 25 are provided in regulations of the state agency, ~~except~~

1 that,

2 (2) no such ~~NO~~ plan shall ~~may~~ be approved unless:

3 ~~(1)(a)~~ it is in conformity with the requirements of
 4 the Social Security Act and with the agreement entered into
 5 under section 59-1103;

6 ~~(2)(b)~~ it provides that all services which constitute
 7 employment as defined in section 59-1102 and are performed
 8 in the employ of the political subdivisions by employees
 9 thereof shall ~~will~~ be covered by the plan, except that it
 10 may exclude services performed by individuals to whom
 11 section 218(c)(3)(C) of the Social Security Act is
 12 applicable;

13 ~~(3)(c)~~ it specifies the ~~source or~~ sources from which
 14 the funds necessary to make the payments required by
 15 paragraph ~~(1)~~ of subsection ~~(c)~~ and by subsection ~~(d)~~
 16 ~~subsections (4)(a) and (5)~~ are expected to be derived and
 17 contains reasonable assurance that ~~such the~~ sources will be
 18 adequate for such purpose;

19 ~~(4)(d)~~ it provides for such methods of administration
 20 of the plan by the political subdivision as are found by the
 21 state agency to be necessary for the proper and efficient
 22 administration of the plan;

23 ~~(5)(e)~~ it provides that the political subdivision will
 24 make such reports, in such form and containing such
 25 information, as the state agency may from time to time

1 require and will comply with such provisions as the state
2 agency or the secretary of health, education, and welfare
3 may from time to time find necessary to assure the
4 correctness and verification of such reports;

5 ~~(b)(f)~~ it authorizes the state agency, in its
6 discretion, to terminate the plan in its entirety, ~~in the~~
7 ~~discretion of the state agency~~, if it finds that there has
8 been a failure to comply substantially with any provision
9 contained in such the plan, such termination to take effect
10 at the expiration of such notice and on such conditions as
11 may be provided by regulations of the state agency and may
12 be consistent with the provisions of the Social Security
13 Act.

14 ~~(b)(3)~~ The state agency ~~shall~~ may not finally refuse
15 to approve a plan submitted by a political subdivision under
16 subsection ~~(e)~~ (1) and ~~shall~~ may not terminate an approved
17 plan without reasonable notice and opportunity for hearing
18 to the political subdivision affected thereby.

19 ~~(c)-(1)(4)(a)~~ Each political subdivision as to which
20 a plan has been approved under this section shall pay at
21 such time or times as the state agency may prescribe by
22 regulation, contributions with respect to wages (as defined
23 in section 59-1102), ~~at such time or times as the state~~
24 ~~agency may by regulation prescribe~~, contributions in the
25 amounts and at the rates specified in the applicable

1 agreement entered into by the state agency under section
2 ~~59-1102~~ 59-1103.

3 ~~(2)(b)~~ Each political subdivision required to make
4 payment under ~~paragraph (1) of this subsection~~ subsection
5 (4)(a) shall, in consideration of the employee's retention
6 in or entry upon employment after enactment of this act,
7 impose upon each of its employees, as to services which are
8 covered by an approved plan, a contribution with respect to
9 his wages (as defined in section 59-1102), not exceeding the
10 amount of the employee tax which would be imposed by the
11 Federal Insurance Contributions Act if such services
12 constituted employment within the meaning of that act, and
13 ~~to shall~~ deduct the amount of such contributions from his
14 wages as and when paid. Contributions so collected ~~shall~~
15 partially discharge the liability of such the political
16 subdivision or instrumentality under ~~paragraph (1) of this~~
17 ~~subsection~~ subsection (4)(a). Failure to deduct such the
18 contribution ~~shall~~ does not relieve the employee or employer
19 of liability therefor.

20 ~~(d)(2)~~ Delinquent payments due under ~~paragraph (1) of~~
21 ~~subsection (c) subsection (4)(a)~~ may, with interest at the
22 rate of ~~six per centum (6%) per annum~~ a year, be recovered
23 by action in a court of competent jurisdiction against the
24 political subdivision liable therefor, or may, at the
25 request of the state agency, be deducted from any other

1 moneys payable to such ~~the~~ subdivision by any department,
2 agency, or fund of the state."

3 Section 4. Section 59-1105, R.C.M. 1947, is amended to
4 read as follows:

5 "59-1105. Contribution account. ~~(a)(1)~~ There is
6 hereby established, in place of the fund known as the
7 contribution fund, ~~a contribution account~~ an agency account
8 for the social security program in the agency fund, to be
9 known as the contribution account.

10 (2) Such ~~the contribution~~ account shall consist of and
11 there shall be deposited in such account:

12 ~~(a)~~(a) all contributions, interest, and penalties
13 collected under ~~sections~~ 59-1103.1 and 59-1104;

14 ~~(b)~~(b) all moneys appropriated thereto by the
15 ~~legislative assembly~~ legislature of the state of Montana;
16 and

17 ~~(c)~~(c) all sums recovered upon the bond of the
18 custodian or otherwise for losses sustained by the account;
19 and

20 (d) all other moneys received for the account from any
21 other source.

22 (3) All moneys in the account shall be mingled and
23 undivided. Subject to the provisions of this act, the state
24 agency is vested with full power, authority, and
25 jurisdiction over the account, including all moneys and

1 property or securities belonging thereto, ~~to~~ the board of
2 investments shall invest the ~~some~~ account in investments of
3 the same character as are permitted by ~~section 79-1202~~ of
4 ~~this code~~ 79-310 for the investment of moneys in the
5 long-term investment fund, ~~and~~ the state agency shall credit
6 all interest and income ~~heretofore or hereafter~~ earned
7 ~~thereon~~ on the account in excess of that which, in the its
8 judgment ~~of the state agency~~, may be needed for the purposes
9 set forth in ~~subdivision (b)~~ subsection (4) of this section,
10 to the earmarked revenue fund or funds of the state agency,
11 to be used by it either to defray the costs of administering
12 the state agency, or for distribution pro rata to the
13 contributing state departments, political subdivisions,
14 school districts, and instrumentalities, as it may
15 determine, ~~and~~ it may perform any and all acts, whether or
16 not specifically designated, which are necessary to the
17 administration ~~thereof~~ of the account and are consistent
18 with the provisions of this act.

19 ~~(b)(4)~~ (4) The contribution account shall be used and
20 administered exclusively for the purpose of this act.
21 Subject to the provisions of ~~subdivision (a)~~ subsection (3)
22 of this section, withdrawals from ~~such the~~ account shall be
23 made for, and solely for, ~~(a)~~ payment of amounts required to
24 be paid to the secretary of the treasury of the United
25 States pursuant to an agreement entered into under ~~section~~

1 59-1103+~~1~~ (B) payment of refunds provided for in section
 2 59-1103.1+~~1~~ and (6) refunds of overpayments, not otherwise
 3 adjustable, made by a political subdivision or
 4 instrumentality.

5 (c)~~(5)~~ (a) From the contribution account the custodian
 6 of the account shall pay to the secretary of the treasury of
 7 the United States such amounts and at such time or times as
 8 may be directed by the state agency in accordance with any
 9 agreement entered into under ~~section 59-1102+1~~ 59-1103 and
 10 the Social Security Act.

11 (d)~~(b)~~ The treasurer of the state shall pay all
 12 warrants drawn upon the state agency in accordance with the
 13 provisions of this section and with such regulations as the
 14 state agency may prescribe pursuant thereto.

15 (e)~~(6)~~ Each department of the state shall include in
 16 its operating budget for the next succeeding fiscal year,
 17 prepared and delivered to the department of administration
 18 in accordance with the provisions of law, an estimate of the
 19 amount which it will be required to contribute to the
 20 contribution account."

21 Section 5. Section 59-1106, R.C.M. 1947, is amended to
 22 read as follows:

23 "59-1106. Costs of administration. All costs allocable
 24 to the administration of this chapter shall be charged to
 25 the earmarked revenue fund, ~~social-security~~ retirement

1 division account, ~~and so, so~~ much of such the costs as are
 2 not defrayed by interest and income earned upon the
 3 ~~contributions-fund~~ contribution account, which has been
 4 credited to ~~said the~~ earmarked revenue fund, ~~social-security~~
 5 ~~retirement~~ division account, as provided in section 59-1105,
 6 shall be paid to the state agency for deposit to the
 7 earmarked revenue fund, ~~social-security~~ retirement division
 8 account, by each department of the state and by the
 9 participating divisions, and instrumentalities, and
 10 political subdivisions of the state pro rata according to
 11 their respective contributions."

12 Section 6. Section 59-1109, R.C.M. 1947, is amended to
 13 read as follows:

14 "59-1109. ~~Supplementation of social-security-benefits~~
 15 Referendum by school district. Any A school district of the
 16 state, may, upon the approval thereof being voted by the
 17 board of trustees, conduct and supervise a referendum,
 18 pursuant to section 218 of the Federal Social Security Act,
 19 among the members of the staff and teachers of the school or
 20 schools under the jurisdiction of such the board of
 21 trustees. If the majority of votes cast in any ~~such the~~
 22 referendum indicates that ~~said the~~ staff and teachers
 23 approve, then ~~such the~~ board of trustees shall certify to
 24 the ~~state-department-of-revenue-for-such-other-agency-as-may~~
 25 ~~be-by-legislation-designated-to-administer-such-program-and~~

1 ~~enter into agreements for extensions of social security~~
 2 ~~coverage)~~ department of administration that the conditions
 3 for coverage by social security, required by section 218 of
 4 the Social Security Act, have been complied with."

5 Section 7. Section 59-1110, R.C.M. 1947, is amended to
 6 read as follows:

7 "59-1110. Eligibility of staff and teachers -- payroll
 8 deductions. ~~(1) Pursuant to such~~ Upon the certification
 9 provided for in 59-1102, the staff and teachers of ~~any such~~
 10 ~~the~~ district ~~shall be~~ are eligible for coverage under the
 11 provisions of the Federal Social Security Act ~~and~~.

12 ~~(2) The~~ The fiscal officer of ~~such the~~ district shall
 13 thereafter collect the contributions required under the
 14 Federal Social Security Act, section 218, ~~by payroll~~
 15 ~~deduction~~ from the staff and teachers by payroll deduction
 16 and from the school district as employer ~~and said~~. The
 17 ~~funds and accounts collected~~ shall be deposited with the
 18 ~~state department of revenue or such other agency as may be~~
 19 ~~designated by the legislature to administer Social Security~~
 20 ~~Act coverage in this state,~~ department of administration and
 21 held in the ~~contributions fund~~ contribution account as
 22 provided by sections 59-1101 to ~~through~~ 59-1108.

23 ~~(3) For the purposes of this act,~~ the contributions
 24 with respect to services, equivalent to the employer's tax
 25 established by the Federal Social Security Act, ~~shall be~~ are

1 the first obligation against any state funds received for
 2 school support by any school district, high school district,
 3 or county high school, and shall ~~first~~ be paid therefrom
 4 before any other expenditure."

5 Section 8. Section 59-1111, R.C.M. 1947, is amended to
 6 read as follows:

7 "~~59-1111. For purposes of act,~~ each state institution
 8 ~~of higher education deemed to have a separate retirement~~
 9 ~~system referendum administration~~ Participation of
 10 institutions of higher education. ~~(1) For the purposes~~
 11 ~~of this section of this act,~~ there shall be deemed to be the
 12 teachers' retirement system of the state of Montana is
 13 considered a separate retirement system ~~for the teachers of~~
 14 with respect to each state institution of higher education
 15 in Montana, and each ~~such~~ institution and the teachers
 16 therein shall be treated separately and independently from
 17 the other ~~such~~ institutions and teachers.

18 ~~(2) On request of the president of any such~~ an
 19 institution, the governor shall designate an agency or
 20 individual to give notice of and supervise a referendum in
 21 the retirement system for that institution in compliance
 22 with the ~~requisites therefore~~ requirements prescribed by
 23 section 218 of the Federal Social Security Act.

24 ~~(3) If the majority of votes cast in any such the~~
 25 referendum indicates that the majority of voters desire it,

1 then the governor shall certify to the ~~federal~~ secretary of
 2 health, education, and welfare that each of the conditions
 3 set forth in section 218 of the Social Security Act ~~has~~ have
 4 been complied with in respect to the retirement system
 5 voting in ~~that~~ the referendum.

6 ~~(d)(4)~~ Upon such certification, the governor shall
 7 designate an official to enter into an agreement, for a
 8 modification or supplement to an existing agreement, or both
 9 such a modification and a supplement, with the appropriate
 10 officers of the federal government, pursuant to section 218
 11 of the ~~said~~ Social Security Act, to secure coverage
 12 thereunder for the retirement system with respect to which
 13 such certification has been made. ~~Such agreements~~ An
 14 agreement may be made retroactive to the extent permissible
 15 under the Social Security Act.

16 ~~(e)(2)~~ The fiscal officer for each an institution for
 17 whose retirement system an agreement has been ~~so~~ made shall
 18 collect the contributions required by ~~said~~ section 218, as
 19 follows:

20 ~~((a))~~ from the teachers in the retirement system of
 21 that institution, by payroll deductions, and

22 ~~((b))~~ ~~for from~~ the state, from any appropriations to
 23 the institution involved for salaries, or ~~otherwise made~~
 24 ~~available to the institution involved~~ other purposes.

25 (6) In the absence of a specific provision in the

1 appropriations ~~for~~ or budget of ~~such~~ an institution for
 2 such contributions, the ~~state board of education~~ board of
 3 regents of higher education shall designate the funds from
 4 which ~~any such~~ the required contributions ~~shall~~ will be made
 5 and the budgetary items to which they ~~shall~~ will be
 6 allocated.

7 ~~((7))~~ In the event that any relevant provisions of
 8 federal law are amended or superseded, then the provisions
 9 hereof which relate to such law shall be applied to ~~such~~ the
 10 amended law or ~~such~~ the superseding law."

11 Section 9. Section 59-1112, R.C.M. 1947, is amended to
 12 read as follows:

13 ~~"59-1112. Social security coverage not to prejudice~~
 14 ~~other~~ No effect on rights under other laws. Nothing in this
 15 act ~~shall~~ may be construed to prejudice or otherwise affect
 16 any rights, benefits, or privileges heretofore accrued under
 17 any other law of this state ~~it being~~ It is the intent of
 18 this legislation to permit supplementation of present
 19 retirement benefits under existing law with social security
 20 benefits, ~~and~~ It is also the intent to permit ~~members of~~
 21 ~~teaching or staff personnel~~ teachers and staff in any
 22 district or institution of higher education, so electing, to
 23 become ~~a member~~ members of more than one retirement system,
 24 to receive credit under more than one system for the same
 25 service, and to receive benefits from more than one such

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1 ~~system~~~~-end-no.~~ No benefits received under either system
2 ~~shall~~ may be deducted from any other or separate system."

-End-